IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 31440 of 2007(P)

PETITIONER:

THOMAS DEVASYA, AGED 58, S/O.THOMAS
RESIDING AT MANNARUPARAMBIL HOUSE,
CHANGAMKARY P.O., EDATHUA VILLAGE, KUTTANAD TALUK.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN
SRI.AJU MATHEW

RESPONDENT:

GEORGE @ BABU, AGED ABOUT 63,
S/O. CHERIAN, RESIDING AT CHENNAMKARA HOUSE,
CHEKKIDIKADU P.O., EDATHUA VILLAGE, KUTTANAD TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

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W.P.C. NO. 31440 OF 2007

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Dated this the 29th day of October, 2007.

J U D G M E N T

This writ petition is filed against the order of the Principal Subordinate Judge, Alappuzha in CMA 15/07. The suit is with respect to two items of properties and the principal dispute is with respect to item No.2 of the plaint schedule property. The plaintiff claims right over item No.2 of the property as he had perfected his right by adverse possession and limitation. There are other contentions with respect to the said item in CMA. The Court below appears to have passed an order on the basis of a consent arrived at between the parties. The appellate court permitted the defendant to cultivate item No.2 of the property on deposit of Rs.1,00,000/-. Whatever it may be, the order passed is on the basis of a consent. It is submitted by the learned counsel now that the plaintiff has never agreed to such an order. It is settled law that when there is a dispute

regarding consensus, the remedy for the party is to approach the Court which has passed that order. I am informed that such a review application is filed and it is pending before the Subordinate Judge as I.A.1706/07. Therefore, I dispose of the writ petition with a direction to the learned Subordinate Judge to dispose of the interim application in accordance with law. If there is any further grievance, the disposal of this writ petition will not debar the plaintiff from approaching this Court for appropriate reliefs.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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